

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Christopher C Smith**
Docket No. **268294**
L. Ct. No. **93-005516-FC**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The motion to waive fees is GRANTED for this case only.

The delayed application for leave to appeal is DISMISSED for lack of jurisdiction as the February 1, 2006 order denying appellant's motion for relief from judgment under MCR 6.500 *et seq.* stems from a successive motion requesting this type of relief since August 1, 1995 where no newly discovered evidence or retroactive change in the law can be found. MCR 6.502(G). Appellant's reliance upon a September 30, 1993 fee statement that his trial counsel filed with the circuit court being newly discovered evidence is misplaced since he had over 2 years to discover the existence of this item before filing his first motion for relief from judgment if he had used reasonable diligence. *People v Cress*, 468 Mich 678, 692; 664 NW2d 174 (2003).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY - 4 2006

Date

Sandra Schultz Mengel
Chief Clerk